2: Schapera E-4, 5 (no date) 1930
FX13 Hottentot FX13
Nama

speak to her directly; if he wishes to communicate with her, he must ask another person to address her in his name, or in the absence of anybody he says aloud, so that she can hear: "I wish that somebody will tell my sister that I want a drink of milk," or whatever it is he wishes to communicate to her. He must never be alone with her in the hut, and he must never speak about her except in the most respectful terms. The eldest sister, especially, is his *gei tàras*, his great respected one. The highest oath a man can take is to swear by her: *ti /gās ao nu*, as true as my sister is alive. If he should abuse this oath, she can walk into his flock and take his finest cows and sheep. A sister can also be generally relied upon to stop any fight in which her brother is taking part. Even at the present time a man will not sleep in his sister's hut when visiting her as a married woman. One of the most offensive curses in Hottentot life, which will cause even the quietest man to fly into a passion, is *sa /gāsa xae*, commit incest with your sister.

This attitude towards the sister is obligatory also on all the men to whom she applies the relationship term */gāb*, brother, even if they are not her own brothers. Should one of these men use bad language in her presence, she can demand a sheep from him with which to purify herself of the pollution. Similarly a man must treat with respect all the women whom he calls "sister". It would in the old days have been a most heinous offence for a man to have married a woman standing in this relationship to him. "It is an indication," says Mrs. Hoernlé, "of the complete transformation of the organization of the people that has taken place owing to Christianization and European influence, that the marriage of direct cousins is now relatively [illegible]".

Quite different is the behaviour of a man to those women of his own generation whom he calls *//nàris*. They are his companions, his playmates; and all is possible with them, free speech and horseplay. Even sexual intercourse would not have been considered wrong. It was frequently one of these women that a man married in the old days.[1]

The relationship between brother and sister also affects the relations of children with their father's sister and mother's brother respectively. The attitude of a woman to her brother's children is one of great restraint; and, just as the father himself has to behave with much

[1] Hoernlé, op. cit., 20; Hahn, "Zur Kunde der Hottentotten," 51; idem, *Tsuni-//Goam*, [illegible]; van Reenen, op. cit., 202; Schultze, op. cit., 320.
[2] Hoernlé, loc. cit.

2: Schapera E-4, 5 (no late) 1930
FX13 Hottentot FX13
Nama

of the tribe. The eldest of them presides over the proceedings; the others are his assessors, *nu-aoju*, and can take part freely in the examination of the litigants or accused and of the witnesses. One of them also acts as public prosecutor, another as advocate for the defence (*gowabo-aob*, intercessor). The post of councillor, as we have seen, is honorary and carries no salary, but certain court fees are levied in trials. The complainant must deliver a couple of fat goats in advance in order to have his case heard, and these provide food for the judges as long as the court sits. The defendant also may be required to contribute a similar fee, even before the verdict is arrived at.

The initiative in any legal proceedings lies in the hands of the complainant. Self-help is not permitted. He must lodge his grievance with the official known as the magistrate. The latter then summons the councillors, who assemble together on the day fixed for the hearing. The court meets as a rule out in the open, under the shade of some tree, where all squat in a circle. The litigants or accused and the witnesses are then summoned by the public messenger, who as sign of his function carries with him a long stick. With this, on entering the hut of the defendant, he knocks three times on the ground, without speaking a word. Then he goes away as silently as he came. The defendant now knows that his presence is required. If he refuses to appear, which in fact seldom happens, or fails to send an acceptable excuse in time, several strong men are sent to take and bring him by force. For defying the summons he then receives a special flogging. If he is accused of some crime, and is suspected of meditating flight, he is brought before the court with a rieme[1] round his neck and his hands tied behind his back. Witnesses summoned are obliged to appear, and if they do not are fetched and punished in the same way as the defendant. The latter must stand or kneel in the centre of the court circle, but if a woman is permitted to sit. The complainant stands or squats nearby till he is called upon to speak, and the summoned witnesses must also remain within a reasonable distance.

The magistrate now states the case to the council. The chairman then calls on the complainant to speak, next on the defendant and on all the witnesses one after the other. One witness as a rule is sufficient, but more are desirable. No hearsay evidence is allowed; only what the witness has himself seen and heard is admitted as valid. False testimony is severely condemned, the perjurer being punished according to the mischief he causes. Examination and cross-examination are conducted by the councillors. They rarely employ direct

[1] [i.e., a thong or strip of cowhide. - Ed.]

2: Schapera E-4, 5 (no date) 1930
FX13 Hottentot FX13
Nama

695 [195] questions, but prefer to arrive at their point by circumlocutions. When they have probed the matter to their satisfaction, or when the accused has either confessed or been reduced to helpless silence by all the cross-questioning, both parties, together with the witnesses, have to withdraw to a distance. The case is then discussed among themselves by the councillors, and judgment is arrived at unanimously, if possible. Only in cases where there is no consensus of opinion is the matter referred to the chief, whose casting vote settles the question finally.

The verdict, opening with the words: "In the name of the chief's law," is pronounced by the chairman, and is forthwith executed. 696 Sentences of death are carried out by the official executioner, who is 681 appointed from time to time by the council, and by his assistant; if corporal punishment has been decided upon, the *nou-aob*, "thrashing-man," gets into action; while any fines levied are collected by the magistrate. The costs of the action, in the form of goats paid as court fees, always fall upon the losing party. If this is the defendant, he must also replace the goats delivered at the beginning of the case by the complainant.

695 No torture is employed in legal trials, nor are there any special oaths or ordeals. Wandres describes, however, what he terms a sort of duel by warrant, which was sometimes resorted to in the past. This duel, *thigu*, could take place with or without weapons. When the councillors were unable to secure harmony between the litigants, the oldest of them took some sand in the palm of each hand, which he held out before the two men [illegible] their shoulders. If the challenge was accepted, the sand was brushed away; but if one of the men refused it, he was branded as a coward and held to be in the wrong. Where both accepted the challenge, the councillors formed a ring around them. They then attacked each other with their fists, kicked, wrestled, and bit, until one of them [57] was overpowered. Reconciliation followed. The victor slaughtered a fat sheep, which was eaten by him and his opponent, with the councillors as guests. Before the feast the two men shook hands in a friendly manner, and as sign of their reconciliation they ate together out of one dish. Finally there followed a general shaking of hands. The duel with weapons was of a more serious nature, and might even result in death. If reconciliation could not be brought about by the councillors, the two men left the court in a rage, and fought with their kirris or spears until one of them was stretched senseless, perhaps